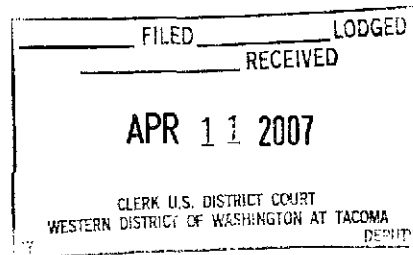


MAGISTRATE JUDGE ARNOLD



07-CR-05018-ORD



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH S. CULPEPPER,

Defendant/Petitioner.

NO. CR07-5018

FINDINGS AND ORDER ACCEPTING  
DEFENDANT FOR DEFERRED  
PROSECUTION, APPROVING  
TREATMENT PLAN, AND DIRECTING  
DEFENDANT TO TAKE TREATMENT  
AS PRESCRIBED

(Clerk's Action Required)

THIS MATTER, coming on for hearing this 11th day of April 2007, upon the defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, Linda R. Sullivan, Assistant Federal Public Defender; the United States of America being represented by Barbara Sievers, Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Oak Street Center, and the files and records herein, being fully advised in the premises, does now make and enter the following:

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///

FINDINGS AND ORDER ACCEPTING DEFENDANT  
FOR DEFERRED PROSECUTION

- 1

FEDERAL PUBLIC DEFENDER  
1331 Broadway, Ste. 400  
Tacoma, Washington 98402  
(253) 593-6710

cc: VSPD, Oak Street Center

**I. FINDINGS OF FACT**

A. On or about the 14th day of January, 2007, Petitioner was charged under the Code of Federal Regulations with the offense/offenses charged in the Information. This offense occurred as a direct result of alcoholism/chemical dependency problems;

B. Petitioner suffers from an alcohol/drug problem and is in need of treatment;

C. The probability of similar misconduct in the future is great if the problem is not treated;

D. Petitioner is amenable to treatment;

E. An effective rehabilitative treatment plan is available to Petitioner through Oak Street Center, an approved treatment facility as designated by the Code of Federal Regulations, and Petitioner agrees to be liable for all costs of this treatment program;

F. That Petitioner agrees to comply with the terms and conditions of the program offered by the treatment facility as set forth in the diagnostic evaluation from Oak Street Center, attached to Statement of Petitioner filed herewith, and that Petitioner agrees to be liable for all costs of this treatment program;

G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and sufficiency of the facts as contained in the written police report attached to Statement of Petitioner filed herewith.

H. That Petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing or trial on the underlying offense or offenses held subsequent to revocation of this Order Granting Deferred Prosecution and that these reports will be used to support a finding of guilt;

From the foregoing FINDINGS OF FACT, the Court draws the following:

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///

## II. CONCLUSIONS OF LAW

A. That the above-entitled Court has jurisdiction over the subject matter and Petitioner Culpepper, in this case;

B. That Petitioner's Petition for Deferred Prosecution meets the requirements of the Code of Federal Regulations;

C. That the diagnostic evaluation and commitment to treatment meets the requirements of the Code of Federal Regulations;

D. That Petitioner is eligible for deferred prosecution.

## III. ORDER

Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is hereby

ORDERED that the defendant is accepted for deferred prosecution. The prosecution of the above-entitled matter is hereby deferred for five (5) years pursuant to the Code of Federal Regulations, upon the following terms and conditions:

A. Petitioner shall be on probation for the deferral period and follow the rules and regulations of probation;

B. Petitioner shall enroll in and successfully complete the two-year treatment program recommended by Oak Street Center according to the terms and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the Petition and incorporated herein by reference. Petitioner shall not change treatment agencies without prior Probation approval;

C. The treatment facility, Oak Street Center, shall file with the United States Probation Office status reports of Petitioner's compliance with treatment, monthly during the first year of the deferred prosecution period and every three (3) months during the second year. The Court may increase the frequency of these reports at its discretion;

1 D. Petitioner shall notify U.S. Probation within 72 hours of any residence change.

2 E. Petitioner shall abstain during the deferred prosecution period from any and all  
3 consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;

4 F. Petitioner shall not operate a motor vehicle on the public highways without a valid  
5 operator's license and proof of liability insurance sufficient to comply with the state laws on  
6 financial responsibility;

7 G. Petitioner shall be law abiding and shall not commit any alcohol/drug related  
8 offenses or other criminal offenses during the period of deferral,

9 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,  
10 questioned, or cited by Law Enforcement;

11 I. In the event that Petitioner fails or neglects to carry out and fulfill any term or  
12 condition of his treatment plan or violates any provision of this Order or any rule or regulation  
13 of his probation officer, upon receiving notice, the Court shall hold a hearing to determine why  
14 Petitioner should not be removed from deferred prosecution and prosecuted for the  
15 offense/offenses charged;

16 J. In the event the Court finds cause to revoke this deferred prosecution, the  
17 stipulated police reports shall be admitted into evidence, and Petitioner shall have her guilt or  
18 innocence determined by the Court;

19 K. That the statement of Petitioner for Deferred Prosecution shall remain sealed, and  
20 all subsequent reports or documents relating to his treatment information shall be sealed, to  
21 maintain confidentiality of Petitioner's treatment information;

22 L. That the Department of Licensing be notified of this Order accepting the Petitioner  
23 for deferred prosecution;

24 M. Upon proof of Petitioner's successful completion of five years' deferral period in  
25 this Order, the Court shall dismiss the charges pending against Petitioner.  
26

1 N. Additional conditions: All conditions set forth  
2 in pre-sentence report.  
3

4  
5 DONE IN OPEN COURT this 11 day of April, 2007.  
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9 J. KELLEY ARNOLD  
10 UNITED STATES MAGISTRATE JUDGE

11 Presented by:

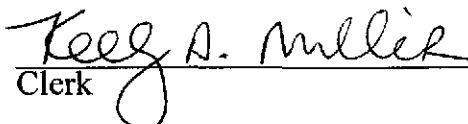
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14 LINDA R. SULLIVAN  
15 Attorney for Petitioner

16 I have received a copy of the foregoing Order of Deferred Prosecution. I have read and  
17 understand its contents, and agree to abide by the terms and conditions set forth herein.

18 Dated: April 11, 2007

19   
KENNETH S. CULPEPPER  
20 Petitioner

21 I certify that a copy of this signed Order was mailed to the subject treatment facility, on  
22 April 12, 2007. The United States Probation Office was also furnished a copy of this  
23 Order.

24   
Clerk